

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA,

v.

JAMES ALTON RUSS,

§
§
§
§
§
§
§
§

CASE NUMBER 6:12-CR-00086-JDK

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On July 27, 2023, the court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant James Alton Russ. The government was represented by Lucas Machicek, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Jon Hyatt, Federal Public Defender.

Defendant originally pled guilty to the offense of Possession with Intent to Distribute Methamphetamine, a Class C felony. This offense carried a statutory maximum imprisonment term of 20 years. The United States Sentencing Guideline range, based on total offense level of 27 and criminal history category of V, was 120 to 150 months. On January 22, 2014, District Judge Michael H. Schneider of the Eastern District of Texas sentenced Defendant to 150 months imprisonment followed by 3 years of supervised release, subject to the standard conditions of release, plus special conditions to include financial disclosure, drug testing and treatment, mental health treatment, and a \$100 special assessment. On January 23, 2014, the term of imprisonment was reduced to 125 months. On January 21, 2022, Defendant completed his term of imprisonment and began his term of supervision.

Under the terms of supervised release, Defendant was required to refrain from excessive use of alcohol and was prohibited from purchasing, possessing, using, distributing, or administering any controlled substance or paraphernalia related to any controlled substances, except as prescribed by a physician. In Allegation 2 of its petition, the government alleges that Defendant violated his conditions of supervised release by submitting urine specimens on January 25, 2022 and March 12, 2022 that were positive for methamphetamine.

If the court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by submitting urine specimens that tested positive for methamphetamine, Defendant will have committed a Grade B violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade B violation, the court shall revoke supervised release. U.S.S.G. § 7B1.3(a)(1). Considering Defendant's criminal history category of V, the Guideline imprisonment range for a Grade B violation is 18 to 24 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated that they had come to an agreement to resolve the petition whereby Defendant would plead true to violating the conditions of supervision by committing the acts as alleged in Allegation 2 of the government's petition. In exchange, the government agreed to recommend to the court a sentence of eighteen months, with credit for time served from January 22, 2023, and no supervised release to follow.

The court therefore **RECOMMENDS** that Defendant James Alton Russ's plea of true be accepted and that he be sentenced to eighteen months imprisonment, with credit for time served from January 22, 2023, and no supervised release to follow. The court further **RECOMMENDS** that the place of confinement be FCI Texarkana, Texas. The parties waived their right to objections so this matter shall be immediately presented to the District Judge for consideration.

So ORDERED and SIGNED this 27th day of July, 2023.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE